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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,464	07/11/2003	Peter Muys	DECL60.001AUS	5288
20995	7590	07/27/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			SPECTOR, DAVID N	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			2873	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,464

Applicant(s)

MUYS ET AL.

Examiner

David N. Spector

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003 and 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: DETAILED ACTION - EX PARTE QUAYLE

DETAILED ACTION – EX PARTE QUAYLE

1. This application is in condition for allowance except for the following formal matters. Claims 1-31 are objected to because the phrase *"lens having a radius $R_1 + R_2$ comprising a lens body having a radius R_1 and a radial outwardly extending flat flange portion having a radius R_2 , wherein the ratio of R_1/R_2 is chosen such that the heat transfer is optimized"* recited in each of the instant independent claims (Claim 1, Lines 1-3; Claim 10, Lines 1-4; Claim 18, Lines 4-7; Claim 26, Lines 2-4) lacks consistency, and is confusing. In particular, the so-called "radius" R_2 is simply the thickness of the flange, recited above, in the radial direction (e.g. the flange itself has an inner radius R_1 ; and an outer radius $R_1 + R_2$). Claims 1-31 are further objected to for the use of the term "heat transfer" in the aforesaid phrase without any indication of where said heat is transferred to and from (e.g. out of the body of the lens). The alternative phrase *"lens includes an optically functioning section shaped in an approximate circle of radius R_1 , and a concentric annular flange section extending a distance R_2 from the outer periphery thereof, in which the ratio R_1/R_2 is chosen to improve the heat transfer properties the lens"*, or other equivalent phraseology, is suggested by the examiner.

2. Since the examiner clearly understands the intended meaning of objected-to claims, the issues involved are being raised herein as objections to the claims, rather than by rejections under 35 U.S.C. §112, second paragraph. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

3. Claims 1-31 would be allowable if rewritten or amended to overcome the objections, set forth in this Office action. The following is a statement of reasons for the indication of allowable subject matter: The instant application is deemed to be directed to a nonobvious improvement over the inventions of Whitty et al. (U.S. Patent No. 5,510,935) and Yamada (U.S. Patent No. 4,723,833), disclosed by applicant as being representative examples in the art to which the instant invention pertains. In particular, said improvement provides methods/apparatus for managing thermal effects in lenses used with high-power lasers; wherein the lens includes an optically functioning section shaped in an approximate circle of radius R_1 , and a concentric

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annular flange section extending a distance R_2 from the outer periphery thereof; and in which the ratio R_1/R_2 is chosen to optimize the heat transfer properties of the lens, as recited in each of applicants independent claims.


Other Remarks/Information

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the European Patent Office (EPO) on July 12, 2002. It is noted, however, that applicant has not filed a certified copy of the EPO application as required by 35 U.S.C. 119(b).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Whitty et al. (U.S. Patent No. 5,510,935) and Yamada (U.S. Patent No. 4,723,833) cited in the specification, but not been included in an Information Disclosure Statement filed by applicant, are made of record herein by the examiner on the form PTO-892 enclosed with this Office action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Spector whose telephone number is (571) 272-2338. The examiner can normally be reached at this number Monday through Friday between 6:00 AM and 2:30 PM.

July 22, 2004



DAVID N. SPECTOR
PRIMARY EXAMINER